IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Revision No. 145 of 2004

Ajay Kumar Sharma …….. Applicant/Revisionist

Versus

Principal Judge,
Family Court, Haridwar & another .. …… Respondents

Ms. Jyotsna, learned counsel for the applicants.
Learned Asstt. Government Advocate for the respondents.

Hon'ble P.C. Pant, J.

This is criminal revision filed under Section 19 sub-Section (4) of the Family Court' Act, 1984.

Heard learned counsel for the applicant and learned A.G.A.

Learned Principal Judge, Family Court, Haridwar has directed maintenance at the rate of Rs. 1000/- per month to be made by applicant to his wife. The said order was passed on 09.08.2004. Subsequently, it appears that a petition earlier moved by the applicant under Section 9 of the Hindu Marriage Act was ex-parte allowed on 19.08.2004.

Learned counsel for the applicant submits that in the light of said order the impugned order dated 09.08.2004 is not sustainable. As far as the order dated 09.08.2004 is concerned it suffers from no infirmity on said date, as the development of obtaining ex-parte decree by the applicant is subsequent to said order. However, since Section 125 of the Code of Criminal Procedure provides that in view of the change circumstances, it is open for the learned Court to modify or set aside the earlier order passed under said Section. As such this criminal revision is dismissed with the observation that it is open for the applicant

to move the application before the learned Principal Judge, Family Court in the light of the subsequent development relating to the decree of restitution of conjugal rights against the respondent No. 2, Smt. Anju, wife of the applicant, which the said Court may consider expeditiously.

(P.C. Pant, J.)

Dt. 03.09.2004
HN